

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRTY FIRST DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 11667 of 2002

Between:

K.Shanker Lingam S/o.Bondhaiah
R/o. & Post; Cherlapally(Village), Parkal Mandal,
Warangal District.

..... PETITIONER

AND

- 1 The Industrial Tribunal-cum-Labour Court, Rep by its Chairman,
Hanmakonda, Warangal.
- 2 A.P.S.R.T.C., Rep by its Depot Manager,
Bus Depot, Parkal,
Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to call for the records from the 1st respondent in respect of impugned Award Dt.1.10.2001 made in I.D.No.58/99, Published on 7/1/2002, issue an appropriate Writ or direction particularly one in the nature of Writ or Certiorari and quash the impugned award in granting no relief as arbitrary, illegal, unjust and consequently direct the 2nd respondent corporation to reinstate the petitioner into service with continuity of service and back wages in the interest of Justice and fair play.

Counsel for the Petitioner:MR.V.NARASIMHA GOUD

Counsel for the Respondent No.: GP FOR LABOUR

The Court made the following :

-

ORDER:

Heard both sides.

The petitioner herein, who is the employee with the second respondent-Corporation, filed this Writ Petition, inter alia, seeking to assail the impugned award in I.D.No. 58 of 1999 dated 1.10.2001, as published on 7.1.2002, passed by the first respondent herein.

The main ground urged in this Writ Petition is to the effect that on a reference made at the instance of the petitioner in regard to the dispute about the termination of his services, the first respondent without going into the preliminary aspect, especially in regard to the validity of the domestic enquiry conducted by the first respondent, straightaway sought to decide the same on merits, which is totally in the teeth of mandate as laid down in the decision of the Supreme Court reported in COOPER ENGINEERING LIMITED VS. P. P. MUNDE. Hence, the Writ Petition.

Having heard the learned counsel on either side and also on perusal of the material on record, there is no dispute of the fact that the petitioner being employee was removed and against which, a dispute was raised under the provisions of the Industrial Disputes Act and the same was taken up as I.D.No. 58 of 1999. As pointed out in the aforesaid decision, it is quite necessary for the labour court to give a finding as to the validity of the domestic enquiry, whereupon the parties would know as to how the matter has to be considered including the evidence, which is to be let in by both sides. In the absence of any such finding arrived at by the court below,

without going into the merits of the case, it has to be held that the order passed is unsustainable.

Accordingly, the Writ Petition is allowed and the impugned award is set aside and the matter is remitted back to the court below for fresh enquiry and disposal after giving notice and opportunity to both sides.

31.12.2004

ka

That Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Friday, The Thirty First Day of December Two Thousand and Four.

To

- 1 The Industrial Tribunal-cum-Labour Court, Rep by its Chairman,
Hanmakonda, Warangal.
- 2 A.P.S.R.T.C., Rep by its Depot Manager,
Bus Depot, Parkal,
Warangal District.
3. 2 CCs to G.P. for Labour, High Court of A.P., Hyderabad (OUT)
4. 2 CD copies.